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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,575	12/29/2000	James Hermerding	042390.P9249	1629

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EXAMINER

YANCHUS III, PAUL B

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/752,575	Applicant(s) HERMERDING ET AL.	
	Examiner Paul B Yanchus	Art Unit 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This non-final office action is in response to the appeal brief filed on 11/24/04.

Response to Arguments

In view of the appeal brief filed on 11/24/04, PROSECUTION IS HEREBY REOPENED. The applicant argues that Durham does not disclose or suggest transferring operations between multiple CPU's and transferring operations from a first CPU to a least recently used CPU. The applicant's arguments are persuasive. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Matoba, US Patent no. 5,913,068.

Regarding claim 1, Matoba discloses a method of managing power in a computer system, comprising:

operating the computer system at a first CPU [CPU #3 is operational until parallel degree switching control software determining that it is to be stopped, column 7, lines 29-41];

receiving a first signal generated by a thermal sensor within the first CPU [column 3, lines 36-42, column 5, lines 53-60 and column 7, lines 13-20]; and

resuming operation of the computer system at a second CPU [CPU #0 is selected to take over the process performed by CPU #3, column 8, lines 12-27].

Regarding claims 2 and 3, Matoba further discloses determining which CPU has least recently taken over the process [column 8, lines 12-17].

Regarding claim 4, Matoba further discloses that the method may be carried on a system with a four CPU configuration and with as many as three CPU's being disabled at one time [column 3, lines 30-41 and column 6, lines 45-50].

Regarding claim 5, Matoba discloses a computer system comprising:

a first central processing unit (CPU) [CPU #3 is operational until parallel degree switching control software determining that it is to be stopped, column 7, lines 29-41]; and

a second CPU, wherein the operation of the computer system is transferred from the first CPU to the second CPU upon the first CPU reaching a predetermined power threshold [CPU #0 is selected to take over the process performed by CPU #3, column 7, lines 12-20 and column 8, lines 12-27].

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Regarding claim 6, Matoba further discloses that the processors each include a thermal sensor [column 3, lines 36-40].

Regarding claim 7, Matoba further discloses that operation of the computer system is transferred from the first CPU to the second CPU upon the thermal sensor within the first CPU measuring the predetermined power threshold [CPU #0 is selected to take over the process performed by CPU #3, column 7, lines 13-41 and column 8, lines 12-27].

Regarding claims 10 and 11, Matoba further discloses determining which CPU has least recently taken over the process [column 8, lines 12-17].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matoba, US Patent no. 5,913,068, in view of Applicant's Admitted Prior Art [AAPA].

Matoba, as described above, discloses a method and system for managing power in computer system. Matoba does not explicitly disclose a cooling system comprising a heat pipe, heat exchanger and a cooling fan. However, the AAPA states that a microprocessor cooling system comprising a heat pipe, heat exchanger and a cooling fan is well known in the art [page 2, lines 13-20]. Therefore the advantages of using the cooling system are well known in the art and

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it would have been obvious to one of ordinary skill in the art to incorporate the well known cooling system disclosed by the AAPA in the system taught by Durham et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul B Yanchus whose telephone number is (571) 272-3678. The examiner can normally be reached on Mon-Thurs 8:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Yanchus
February 10, 2005


LYNNE H. BROWNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100